

Serial No. 10/766398
67,097-040
EH11002/PWA017360

AMENDMENTS TO THE DRAWINGS:

These drawings replace the previous filed drawings. No new matter has been added.

Figure 6 has been slightly amended to refine the perspective.

Figures 8 and 9 have been amended to illustrate the flap edge in phantom.

Serial No. 10/766398
67,097-040
EH11002/PWA017360

REMARKS

Applicant wishes to thank the Examiner for the detailed remarks. Claims 1-10 and 15-19 have been canceled as they have been previously withdrawn. New claims 20-28 are presented. Accordingly, claims 11-14 and 20-28 are pending.

Claims 11-14 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Markstein et al* in view of *Mayer et al* and *in view of official notice*. Applicant respectfully traverses these rejections as there is absolutely no teaching, suggestion, or motivation to modify *Markstein et al* in view of *Mayer* as proposed. As admitted by the Examiner, *Markstein et al* fails to disclose at least one of the divergent flaps comprising a multiple of cooling channels. In fact, *Markstein et al* is concerned only with a FAILSAFE NOZZLE ACTUATING SYSTEM. Absolutely no mention is made of cooling channels or nozzle whatsoever. *Mayer et al* discloses only a cooling air transfer means:

Referring to FIG. 3, the present invention provides a cooling air transfer means 70, as shown in FIG. 1, having a convergent flap transfer tube 73 operable to receive cooling air from convergent flap cooling air passage 64 and having an aft portion 74 slidably engaged within a divergent flap transfer tube 75 which conveys the cooling air to divergent flap cooling air passage 68. Convergent flap transfer tube 73 and divergent flap transfer tube 75 are configured about flap pivot point 50F between convergent and divergent flaps 46 and 54 respectively such that their common radius of curvature R has its origin along the pivot line coincident with flap pivot point 50F

[col. 4, lines 17-30]

Mayer et al makes no mention whatsoever of an actuation system for the nozzle. Simply, there is no motivation to combine *Markstein et al* in view of *Mayer* as proposed. The only motivation to make the combination as proposed is by following the knowledge disclosed within the present invention. That is, the Examiner is piecemeal selecting and combining exhaust nozzle references utilizing Applicant's application as a blueprint. This is improper. This is impermissible

Serial No. 10/766398
67,097-040
EH11002/PWA017360

usage of hindsight in an attempt to recreate Applicant's device. Accordingly, claims 11-14 are properly allowable.

The Examiner also contends that the mere duplication of the essential working parts of a device involves only routine skill in the art. Although it may be true that "the mere duplication of the essential working parts of a device involves only routine skill in the art", Applicant is not merely duplicating components. The "duplication of essential working parts" claimed by Applicant are required to provide the desired beneficial result. The fact that the Examiner must address Applicant's limitations in this way further supports Applicant's argument that there is no motivation for the proposed combination.

Furthermore, even if the combination were properly made, there are differences between the claimed invention and the teachings of the cited references so that the combination does not meet the limitations of Applicant's claims. Applicant specifically recites: each of said plurality of divergent flap seals at least partially overlapping an adjacent divergent flap to selectively cover and expose at least one of said plurality of intakes in said adjacent divergent flap in response to articulation of said convergent/divergent nozzle system. The proposed combination completely fails to disclose or suggest at least this limitation. In fact, the tube-in-tube structure [see *Mayer* Figure 3] of *Mayer* prevents such movement to selectively cover and expose at least one of said plurality of intakes. The claims are properly allowable.

New claims 20-28 read on the elected embodiment and recite further features of the cooling arrangement for a convergent/divergent nozzle system as it transitions between the open position and the closed position which are neither disclosed nor suggested by the cited references and are thus properly allowable.

The amendments made to the specification and the drawings are not connected in any way to any rejection in this application.

Serial No. 10/766398
67,097-040
EH11002/PWA017360

Applicant believes that no additional fees are required; however, should any fees or extensions of time be required, the Commissioner is authorized to charge Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C.

Applicant respectfully submits that this case is in condition for allowance. If the Examiner believes that a teleconference will facilitate moving this case forward to being issued, Applicant's representative can be contacted at the number indicated below.

Respectfully Submitted,

CARLSON, GASKEY & OLDS, P.C.


DAVID L. WISZ
Registration No. 46,350
Attorneys for Applicant
400 West Maple, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Dated: December 12, 2005

N:\Clients\PRATT and WHITNEY\IP00040\PATENT\PWA and 040-10-11-2005-.doc